

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF	)	
	)	
Flying Saddle LLC	)	
Michael May, Owner	)	
Alpine, Wyoming	)	
PWS ID# WY5600604	)	
	)	
Respondent	)	
	)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g)	)	
of the Safe Drinking Water Act,	)	
42 U.S.C. § 300g-3(g)	)	Docket No. <b>SDWA-08-2003-0004</b>
	)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region VIII.

FINDINGS

1. Flying Saddle LLC (Respondent) is a limited liability corporation under the laws of the state of Wyoming as of April 2001 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Flying Saddle Lodge Water System (the "System"), located in Lincoln County, Wyoming for the provision to the public of piped water for human consumption.

3. The Flying Saddle Lodge Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a July 26, 2001 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by a ground water source consisting of one well. The system serves approximately 50 persons per day through 7 service connections, and is open seasonally, June 1 through September 30.

#### FINDINGS OF VIOLATION

##### I.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the

water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 2<sup>nd</sup> (April-June) quarter in 2001 and the 2<sup>nd</sup> (April-June) quarter in 2002, in violation of 40 C.F.R. § 141.21(a).

## II.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor their water for nitrate to determine compliance with the nitrate MCL, as stated in 40 C.F.R. § 141.62.
2. Respondent monitored for nitrate in 2002, however Respondent failed to monitor the System's water for nitrate in 2001, in violation of 40 C.F.R. § 141.23(d).

## III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.

2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I and II, in violation of 40 C.F.R. § 141.201.

IV.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a total coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within 10 days after the system discovers the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(2).

V.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Sections II and III, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Prior to opening for the 2003 season, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. Upon the date of this Order, and annually thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
3. No later than one year from the effective date of this Order, Respondent must provide public notice of the violations specified under the Findings of Violation in Sections I and II, in this Order **OR** Respondent may use an annual report detailing all violations and situations that occurred during the previous twelve months, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice must be

given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

4. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.

5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
6. Reporting requirements specified in this Order shall be provided by certified mail to:

Olive Hofstader  
U. S. EPA Region VIII (8ENF-T)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g) (3) (A), 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).



4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 14TH day of January, 2003.

SIGNED DJJ FOR  
\_\_\_\_\_  
Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

SIGNED  
\_\_\_\_\_  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

FILED WITH THE REGIONAL HEARING CLERK ON JANUARY 14, 2003. If you would like copies of the attachments please contact the RHC office at 303-312-6765.